REMARKS

Claims 1-15 are pending. Claims 1, 5, 8 and 15 are the only independent claims. Claims 3 and 10 have been amended to improve their idiomatic English without narrowing the scope of those claims. Claim 15 has been added to provide Applicant with a more complete scope of protection.

In the most recent Office Action prior to the filing of the Request for Continued Examination submitted concurrently herewith, Claims 1, 3, 5, 8 and 9 were rejected under 35 U.S.C. § 103 as obvious from U.S. Patent 6,160,785 (Hutter) in view of U.S. Patent 4,157,454 (Becker). Claims 2 and 6 were rejected under 35 U.S.C. § 103 as obvious from Hutter and Becker and further in view of U.S. Patent 5,132,955 (Hanson). Claims 4, 7 and 11-14 were rejected under 35 U.S.C. § 103 as obvious from Hutter and Becker and further in view of U.S. Patent Application 10/035,311 (Kato et al.). Applicant traverses and submits that the independent claims, including newly presented independent claim 15, are patentable for at least the following reasons.

Claim 1 is directed to a data transmission system that includes calculation means for performing calculation using a variable on an original data stream read from a recording medium so as to produce a calculated data stream; variable creation means for creating the variable; a stream buffer for temporarily storing the calculated data stream therein; inverse calculation means for performing inverse calculation on the calculated data stream output from the stream buffer to reproduce the data stream; stream processing means for processing the reproduced data stream to produce a processed data stream; and output means for outputting the processed data stream.

The Office Action cited Hutter as teaching a stream buffer, stream processing means, and output means. However, the Office Action recognized that Hutter contains no teaching of means to perform calculations, inverse calculations or create variables, as recited,

for example, in claim 1. In an attempt to remedy this deficiency, the Office Action relies upon Becker.

Hutter relates to a method whereby music CD reproduction can be enhanced when such a CD is played in a DVD player. The enhancement takes advantage of the fact that unlike a regular CD player, a DVD player has sufficient processing capability to perform more complex error correction on CD's played on the DVD player. By virtue of the DVD's hardware, increased error correction can be achieved without the necessity of additional, and costly, hardware.

However, the process of error correction of CD's in a DVD player does not require encryption and decryption techniques as described in Becker or the calculation, inverse calculation, and variable creation features of claim 1. Nothing in Hutter shows the slightest recognition of any deficiency in its structure that would require the addition of those features, or motivate anyone to add those features. The only reason for adding those features is to meet the limitations of Applicant's claims.

The Office Action cited the following statement in Becker as allegedly providing the motivation to modify Hutter in a manner utterly unnecessary to a DVD player:

"For the purpose of data security, it is known to provide enciphering systems at those points of the system which are particularly liable to unauthorized access. This applies, for example, to *transmitters of remote data processing lines or to data base storages shared by several users.*" (col. 1, lines 15-20, emphasis supplied).

As was pointed out in the previous response, Becker makes very clear which portions of a system may sometimes require enciphering. It is those portions that are liable to unauthorized access. However, the memory buffers of Hutter, designed for use in error correction, are not taught as being liable in any way to unauthorized access. There is no description in Hutter of anyone having any access to these memories, still less unauthorized access.

The memories in Hutter are used during error processing by the CPU and *are not accessible to the user*. Rather, as is quite clear from Hutter, the buffers are *only accessible by the internal circuitry of the DVD player*. Thus, these memories are of a type *not* known to be provided with enciphering systems, since they are *not* accessible to others, are *not* shared by several users, and are not liable to outside access, still less unauthorized access. For at least the above reasons, Becker provides no motivation whatsoever to modify Hutter in the manner proposed by the Examiner.

In the comments accompanying the **Advisory Action** mailed February 26, 2004, the Examiner made this statement: "an affidavit will not be submitted because no outside knowledge was used to combine the teachings of Hutter and Becker." However, the request was for the affidavit was to support the unsupported allegation that the memories of Hutter, used in error correction only, are in some way accessible from the outside. It is completely beside the point whether DVD's themselves may be the subject of pirating, as is also brought up in the comments (and will be further discussed below). The question is whether Becker's teaching supplies the motivation to actually modify the Hutter reference.

It clearly does not. The Examiner has provided no evidence *or reasoning* to show how the memories in Hutter are accessible except from the internal circuit components of the DVD player. If they are not accessible, they cannot be liable to *any* outside access, let alone unauthorized access. And if they are not liable to outside access, then they are *not* the type of storage taught by Becker to be provided with enciphering systems. Thus, an affidavit is required to show that the memories in question are accessible from the outside. So far, there has been no such showing. For this reason alone, there is no prima facie case of obviousness and the rejection is improper.

Again, the affidavit (or at least detailed technical analysis) requested would have to include a showing that the buffer memories of Hutter are somewhere shown in the Hutter patent itself to be *liable to unauthorized access*, or to any access at all, other than by the

internal error correction circuitry of the DVD player. Absent such a showing, there is no motivation to make the proposed combination.

As to the alleged need, referred to in the Continuation Sheet to the Advisory Action, to protect the memory inside a DVD player because it may be subject to pirating, there is no such need because *the DVD itself contains all the information needed for pirating*. A pirate would not *first* load information from the DVD into an inaccessible memory and *then* try to steal that stored (and inaccessible) information when he can simply read the information *off the DVD itself*. Thus, there is *no* susceptibility of the memory to unauthorized access, at least for the further reason that the DVD itself has all the information any pirate would need, and for this further reason there is no need to provide enciphering to the memory of Hutter under discussion.

For the reasons mentioned above, and the reasons presented in previous responses, which are incorporated by reference, the rejection amounts to an improper hindsight reconstruction of the claims and fails to set forth a prima facie case of obviousness. Accordingly, withdrawal of the rejection of claim 1 is respectfully requested. Independent claims 5 and 8 recite similar features and are believed patentable for similar reasons.

New independent claim 15 further recites, inter alia, that calculated data are temporarily stored in the stream buffer, and the variable for use in calculation and/or inverse calculation is changed in each cycle based on the variable change code. This is not taught or suggested in any of the cited references, and for at least this reason, new independent claim 15 is believed patentable over the prior art.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

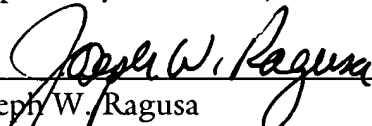In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: March 18, 2004   Respectfully submitted,

                                         By _____
                                         Joseph W. Ragusa
                                            Registration No.: 38,586
                                         DICKSTEIN SHAPIRO MORIN &
                                            OSHINSKY LLP
                                         1177 Avenue of the Americas
                                         41st Floor
                                         New York, New York 10036-2714
                                         (212) 835-1400
                                         Attorney for Applicant